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10/824,045

04/14/2004

Cong Thanh Dinh

T&B 1788

6076

7590

04/22/2005

G. ANDREW BARGER  
THOMAS & BETTS CORPORATION  
8155 T&B BOULEVARD 4B-36  
MEMPHIS, TN 38125

EXAMINER

ESTRADA, ANGEL R

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/824,045

Applicant(s)

DINH, CONG THANH

Examiner

Angel R. Estrada

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bardaville(US 5,187,853).

Regarding claim 1, Bardaville discloses an electrical closure apparatus (78) for installing in a wall, the electrical closure apparatus (78) comprising a front face (122) defining a front area (see figure 6); a rear face (120) disposed opposite the front face (see figure 7), the rear face (120) defining a rear area less than or equal to the front area (see figure 6) and having at least one connector port (202, column 10 lines 2-8) and at least one impression member (158, 160) spaced from the rear face (120) such that an outline is made, at least partially of the rear face when pressed against the wall (column 10 lines 33-58).

Regarding claim 2, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a point (see figure 10 or column 7 lines 17-21).

Regarding claim 3, Bardaville discloses the electrical closure apparatus (10) wherein the impression member (158, 160) is a raised edge (see figures 9 and 10).

Regarding claim 7, Bardaville discloses the electrical closure apparatus (10) wherein the impression member (158, 160) extends from and is integrally formed with the rear face (see figures 6 and 7 or 9 and 10).

Regarding claim 8, Bardaville discloses an electrical closure apparatus (78) for installing in a wall, the electrical closure apparatus (78) comprising a recessed portion for installing within the wall (see figures 6-8); a front edge (122) coupled to the recessed portion (see figure 7), the edge (122) for abutting the wall when the electrical closure apparatus (78) is installed; and at least one impression member (158, 160) secured to the electrical closure apparatus (78) such that a two-dimensional outline is made, at least partially of the recessed portion when the impression member (158, 160) is pressed against the wall (column 10 lines 33-58).

Regarding claim 9, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a point (see figure 10 or column 7 lines 17-21).

Regarding claim 10, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a raised edge (see figure 10).

Regarding claim 11, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a geometric shape (see figure 10). Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 12, Bardaville discloses the electrical closure apparatus (78) wherein the recessed portion (see figure 7) includes a wall attachment means (122 or 154) coupled thereto (see figures 6-8).

Regarding claim 13, Bardaville discloses the electrical closure apparatus (78) wherein the recessed portion (see figures 6-8) includes, at least partially, the wall attachment means (122 or 154).

Regarding claim 14, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158,160) extends from and is integrally formed with the recessed portion (see figure 7 or 9).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardaville (US 5,187,853).

Regarding claim 4, Bardaville discloses the claimed invention except for the impression member (158,160) being integrally formed on the front face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Bardaville's electrical closure apparatus with the impression member being integrally formed on the front face, since it has been held that rearranging parts of an

invention involves only routine skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 5, the modified Bardaville discloses the electrical enclosure apparatus (78), wherein the impression member (158, 160) is spaced from the front face.

Regarding claim 15, Bardaville discloses the claimed invention except for the impression member (158,160) being integrally formed on the front face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Bardaville's electrical closure apparatus with the impression member being integrally formed on the front face, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 16, Bardaville discloses an electrical closure apparatus (78) for installing in a wall, the electrical closure apparatus (78) comprising: bounding side walls (see figure 6-8); a rear wall (120) coupled to the bounding side walls (see figures 6-8) and having a front face and a rear face disposed opposite the front face (see figures 6-8); a recessed portion (see figure 6-8) formed by the side walls (see figures 6-8) and the rear wall (120) for installing within the wall; a front edge (122) integrally formed with the bounding side walls (see figures 6-8) for abutting the wall when the electrical closure apparatus (78) is installed therein; and at least one impression member (158, 160) disposed on the electrical closure apparatus (78) for making an outline on the wall when pressed there against (column 10 lines 33-58); but Bardaville lacks the electrical closure

apparatus having four bounding side walls. It would have been an obvious matter of design choice to change the shape of the electrical closure apparatus from a cylindrical shape to a rectangular shape having four bounding sidewall, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 17, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a geometric shape (see figure 10). Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 18, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is a raised edge (see figure 10).

Regarding claim 19, Bardaville discloses the electrical closure apparatus (78) wherein the impression member (158, 160) is formed on the recessed portion and raised thereof (see figure 7).

Regarding claim 20, Bardaville discloses the claimed invention except for the impression member (158,160) being formed on the front face and raised thereof. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to make Bardaville's electrical closure apparatus with the impression member being formed on the front face and raised thereof, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-5 and 7-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miles (US 3,260,400) discloses an electrical closure apparatus with impression members. Kaneda (US 4,685,581) discloses an electrical enclosure with a rear surface having a connector port.

5. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

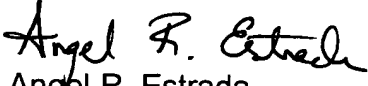


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AE

April 11, 2005

  
Angel R. Estrada  
Patent Examiner  
Art Unit: 2831